



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/532,583	05/17/2005	Gunter Langen	B1180/20037	4302
3000 7590 05/29/2007 CAESAR, RIVISE, BERNSTEIN, COHEN & POKOTILOW, LTD. 11TH FLOOR, SEVEN PENN CENTER 1635 MARKET STREET PHILADELPHIA, PA 19103-2212			EXAMINER MOORE, MARGARET G	
			ART UNIT 1712	PAPER NUMBER
			MAIL DATE 05/29/2007	DELIVERY MODE PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/532,583	Applicant(s) LANGEN ET AL.	
	Examiner Margaret G. Moore	Art Unit 1712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 12 March 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16 to 32 is/are pending in the application.
- 4a) Of the above claim(s) 16 to 18, 23 to 30 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 19 to 22, 31 and 32 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

1. Applicants' election with traverse of Group II, claims 19 to 22, in the reply filed on 3/12/07 is acknowledged. The traversal is on the ground(s) that claims 23 and 24 have been amended to link the method claims with the elected product claims and as such claims 19 to 32 possess unity of invention and should be examined together. This is not found persuasive because, as noted below, claims 23 to 30 are drawn to a method which is restrictable from the previously elected composite of claim 19 (and claim 19 does not possess a special technical feature as shown by the prior art rejection below).

The requirement is still deemed proper and is therefore made FINAL.

Note that applicants' traversal did not address the restriction of claims 16 to 18. Therefore this restriction requirement is deemed final as well.

2. Newly submitted claims 23 to 30 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: This claims are drawn to a method of making a composite while the claims originally under examination were drawn to a composite. These claims are related as product and process of making wherein the product can be made by a different method such as a method in which the nanosol is produced by hydrolyzing chlorosilanes or by breaking down silica sols of a larger size. On the other hand, the composite can be prepared by first applying a hydrophobic organic silicon compound to the dressing, then applying a nanosol of silica.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly claims 23 - 30 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

3. Claim 32 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Reference to "The method of claim 31" lacks antecedent basis and is confusing since claim 31 is drawn to a composite, not a method.

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 19 to 22 and 31 are rejected under 35 U.S.C. 102(e) as being anticipated by Thunhorst et al.

The teachings in Thunhorst et al. have been addressed in the previous office action and as such this will not be repeated. Applicants' traversal is not persuasive.

Applicants note that their claim is drawn to a composite material comprising a wound dressing and a coating composition. They note that claim 8 in Thunhorst et al. only specifies that the crosslinked foam article of claim 1 can be used as a wound dressing. They argue that the substrate material disclosed by patentees are not identified as wound dressings. This is not persuasive.

It is unclear what weight applicants are giving the phrase "wound dressing" but claim 22 discloses it merely as a flat textile form, a foamed plastic or a gel. See also page 4 of the specification which describes the wound dressing as a material within the breadth of those taught on column 6 in the prior art.

Thunhorst et al. teach that the foam can be applied to a textile or another layer of foam. This reference even has claims to this effect. See claims 15 - 17. This textile or other layer of foam meets the breadth of the claimed wound dressing. In addition, note that claim 16 in Thunhorst et al., which describes that the foam can be within the void of a textile material, is comparable to that disclosed by applicants on page 5 of their specification. There is no specific meaning given to "wound dressing" that distinguishes it from the substrates in the prior art.

In addition, note claim 13 in Thunhorst et al. which describes that the foam absorbs fluid, a property found in wound dressings.

Thus it is unclear how or why the coated or embedded textile materials in Thunhorst et al., or the multilayered foam material in Thunhorst et al., is different from the claimed composite. The term "wound dressing" does not distinguish the composite from the composites in the prior art, particularly since the prior art discloses a utility as a wound dressing.

For new claim 31, note that this is a product by process limitation. Thunhorst et al. teach using silica nanosols but do not specifically teach the method by which they are made. While patentees do not specifically teach hydrolyzing tetraalkoxysilanes, the Examiner notes that it is the product and not the process per se that is claimed. Since the products appear to be the same (and since hydrolyzing tetraalkoxysilanes is a known method of obtaining silica nanosols) this process limitation does not lend patentability to the instant claims.

The Examiner is unable to examine claim 32 for prior art purposes since it is unclear what is intended by this claim.

6. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

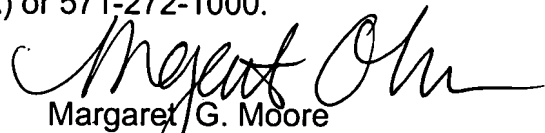
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Margaret G. Moore whose telephone number is 571-272-1090. The examiner can normally be reached on Monday to Wednesday and Friday, 10am to 4pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Randy Gulakowski can be reached on (571) 272-1302. The fax phone

Art Unit: 1712

number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Margaret G. Moore
Primary Examiner
Art Unit 1712

mgm
5/24/07